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UNDER 37 CFR 1.8(a)**

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7 NOVEMBER 2003
HUESCHEN AND SAGE

C. SAGE
Dated: 7 NOVEMBER 2003

PF 94 PCT SEQ

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Applicant : Toufic RENNO and Jean-Yves BONNEFOY

Serial No. : 09/913,772

Filed : September 24, 2001

Title : USE OF AN ENTEROBACTERIUM OmpA PROTEIN
COMBINED WITH AN ANTIGEN, FOR GENERATING AN
ANTIVIRAL, ANTIPARASITIC OR ANTITUMOR CYTOTOXIC
RESPONSE

Art Unit : 1645

Examiner : Robert A. ZEMAN, Esq.

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Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

RESPONSE AND ELECTION UNDER 37 CFR § 1.111

Sir:

Responsive to the Office Action, a Restriction Requirement, dated October 7, 2003, the applicants elect, with traverse, to prosecute the invention of Group III. It is the position of the Office that the application pertains to a plurality of patentably distinct compounds. The Office does not provide significant explanation for the Unity objection, merely citing the usual "common special technical feature" requirement and quoting regulatory support for selecting the first recited invention in each of the artificial categories identified. It is submitted that the Office has not established that there is no special technical

feature. The applicants assert that the common special technical feature of the instant invention is the use of OmpA proteins to generate/increase cytotoxic response. This feature is central to all claims. What the Office defines as independent inventions it is argued are species of the common special technical invention.

Alternatively, the Office may withdraw the non-elected subject matter without prejudice to its/their rejoinder during later examination and/or to its/their prosecution in a Divisional Application.

The applicants respectfully submit that by merely withdrawing the non-elected subject matter pending notification of allowable subject matter, the applicants distinctly and affirmatively identify subject matter which they assert, upon examination will be found a part of the claimed invention. The applicants reassert their right to rejoin non-elected claims upon the identification of allowable subject matter.

Accordingly, entry of the present Election into the record of this application, and swift and favorable consideration of the instant application is respectfully solicited. Swift and favorable consideration of the instant application is respectfully solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: 
G. PATRICK SAGE

Dated: November 7, 2003
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Enclosure: Postal Card Receipt

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